

**IN THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

IN RE: Todd Anthony Winter  
3215 Dogwood Knoll Trl  
Rosenberg, TX 77471-6703

CHAPTER 13  
CASE NO. 18-34833-H4

DEBTOR

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**MOTION TO DISMISS OR CONVERT**

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TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

David G. Peake, Chapter 13 Trustee moves the court to Dismiss or Convert the above-referenced case for the following reasons:

- The Chapter 13 Plan must be amended to provide for the claims of the secured and priority Creditors in full within the terms of the Plan.
- Payments due pursuant to U.S.C. § 1326(a)(1) have not been made.
- Debtors failed to appear for the Meeting of Creditors and this constitutes a failure to appear in proper prosecution of the case for purposes of subsequent eligibility under 11 U.S.C. § 109.
- The Debtors have not filed their Federal Income Tax return for the following years: . Therefore the Debtors are not able to meet the burden of proving that the Plan complies with 11 U.S.C. § 1322 (a) (2).
- The Debtors have caused unreasonable delay that is prejudicial to the Creditors.
- Other: Failed to amend schedule J to reflect accurate disposable income

**A HEARING WILL BE CONDUCTED ON THIS MATTER ON NOVEMBER 26, 2018 AT 9:00 AM IN U.S.  
BANKRUPTCY COURT, 515 RUSK, ROOM 600, 6TH FLOOR, HOUSTON, TX 77002-0000. IF YOU WANT A  
HEARING, YOU MUST REQUEST ONE IN WRITING. YOU MUST FILE YOUR RESPONSE WITH THE CLERK  
OF THE BANKRUPTCY COURT WITHIN TWENTY ONE DAYS AS FOLLOWS: 1. FILE A RESPONSE WITHIN  
TWENTY ONE DAYS THAT SHOWS THAT THE ABOVE-CITED DEFICIENCY HAS BEEN CURED, OR 2. FILE  
A RESPONSE WITHIN TWENTY ONE (21) DAYS THAT SHOWS THAT THE COURT SHOULD ALLOW YOU  
ADDITIONAL TIME TO CURE THE ABOVE-CITED DEFICIENCY. OTHERWISE, THE COURT MAY TREAT THE  
PLEADING AS UNOPPOSED AND DISMISS OR CONVERT YOUR CASE. IF THE DEFICIENCY IS FOR  
FAILURE TO FILE TAX RETURNS AND THE CASE IS DISMISSED, YOU WILL NOT BE ALLOWED TO FILE  
ANOTHER BANKRUPTCY CASE UNTIL ALL OF YOUR RETURNS ARE FILED.**

Wherefore, the Trustee requests that the case be dismissed or converted to Chapter 7, whichever shall be determined in the best interest of creditors.

Dated: October 26, 2018

/s/ David G. Peake

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David G. Peake  
Standing Chapter 13 Trustee

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**CERTIFICATE OF SERVICE**

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This is to certify that a true and correct copy of the foregoing Trustee's Motion to Dismiss Case has been served electronically on all parties requesting electronic notice and has been served on the listed parties (if listed) by mailing a copy of same to the address listed below via first class mail October 26, 2018.

Electronically signed by  
David G. Peake, Chapter 13 Trustee

Debtor's Attorney of Record:  
CROSLAND LAW FIRM, PLLC  
SETH CROSLAND  
1848 NORWOOD PLAZA  
SUITE 205B  
HURST, TX 76054

BARRETT DAFFIN FRAPPIER TURNER & ENGEL LLP  
4004 BELT LINE ROAD SUITE 100  
ADDISON, TX 75001

CROSLAND LAW FIRM, PLLC  
SETH CROSLAND  
1848 NORWOOD PLAZA  
SUITE 205B  
HURST, TX 76054

PACIFIC UNION FINANCIAL, LLC  
1603 LBJ FREEWAY, SUITE 500  
FARMERS BRANCH, TX 75234

Debtor:  
Todd Anthony Winter  
3215 Dogwood Knoll Trl  
Rosenberg, TX 77471-6703

CAPITAL ONE  
PO BOX 30281  
SALT LAKE CITY, UT 84130

FORT BEND COUNTY  
1317 EUGENE HEIMANN CIRCLE  
RICHMOND, TX 77469

**IN THE UNITED STATES BANKRUPTCY COURT  
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IN RE:	§	CASE NO. 18-34833-H4
Todd Anthony Winter	§	
	§	
	§	
DEBTOR	§	
	§	CHAPTER 13

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**ORDER OF DISMISSAL**

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1. On the chapter 13 trustee's motion, this case is dismissed. The Court's reasons for dismissal were stated on the record in open court.
2. The deadline for filing an application for an administrative expense in this case is set at 21 days following entry of this order. The deadline for filing a motion for allowance of a claim arising under § 507(b) in this case is also set at 21 days following entry of this order.
3. If an application for allowance of professional fees and expenses has previously been filed in this case, the applicant is not required to file a new application for allowance of administrative expenses under § 503, if the new application only seeks allowance of the same professional fees and expenses previously requested.
4. Any prior order directing an employer or other person to pay funds to the chapter 13 trustee is terminated. Any prior order authorizing an ACH or other means of electronic payment is terminated.
5. The Court finds good cause to direct the payment of funds held by the chapter 13 trustee at the time of entry of this Order as follows:
  - (a) First, the balance on hand in the Emergency Savings Fund will be paid to the Debtor(s);
  - (b) Second, to any unpaid chapter 13 trustee's statutory compensation;
  - (c) Third, the balance on hand in the Reserves for ad valorem taxes, to the holder of the claim secured by the senior security interest against the property for which the Reserves were established;
  - (d) Fourth, the balance in any other Reserve account to the Debtor;
  - (e) Fifth, to any unpaid payments mandated to be made by the Trustee under a prior Court order, including but not limited to any mandated adequate protection payments;
  - (f) Sixth, to pay any unpaid fees to Debtor(s)' attorneys and to reserve for any filed applications for which no order has yet been entered; and
  - (g) Seventh, to the Debtor(s).

Any party-in-interest objecting to the “for cause” distributions under this paragraph 5 must file an objection within 14 days of entry of this Order. The Chapter 13 Trustee will defer making distributions under this paragraph 5 until the next ordinary disbursement date following the later of (i) 22 days following entry of this Order; or (ii) entry of an order resolving any timely filed objection.

SIGNED ON \_\_\_\_\_

Dated: \_\_\_\_\_

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JEFF BOHM  
United States Bankruptcy Judge